

AMENDED IN SENATE JUNE 17, 2013

AMENDED IN ASSEMBLY MAY 29, 2013

AMENDED IN ASSEMBLY APRIL 10, 2013

AMENDED IN ASSEMBLY MARCH 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 763

Introduced by Assembly Member Buchanan

February 21, 2013

An act to add Section 48.5 to the Fish and Game Code, and to add Section 64.5 to the Harbors and Navigation Code, relating to aquatic invasive plants.

LEGISLATIVE COUNSEL'S DIGEST

AB 763, as amended, Buchanan. Aquatic invasive plants: control and eradication.

Existing law designates the Department of Boating and Waterways as the lead agency of the state for the purpose of cooperating with agencies of the United States and other public agencies in controlling certain invasive plants in the Sacramento-San Joaquin Delta, its tributaries, and the marsh, and authorizes the department to furnish money, services, equipment, and other property for the control of those invasive plants.

This bill would additionally designate the department as the lead agency of the state for the purpose of cooperating with other state, local, and federal agencies in identifying, detecting, controlling, and administering programs to manage invasive aquatic plants, as defined, in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun

Marsh. The bill would authorize the department, in consultation with appropriate state, local, and federal agencies, and upon concurrence from the Department of Fish and Wildlife following the completion of a specified assessment described in the bill, to take such action it determines is necessary to implement control and, when feasible, eradication measures for those invasive aquatic plants.

This bill would require the department to regularly consult with the United States Department of Agriculture, the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the University of California, and other members of the scientific and research communities, and other state agencies with authority over the control of invasive aquatic plants, to determine which species of those plants should be given the highest priority for management and to determine the best control, ~~and~~ *and*, when feasible, eradication measures. The bill would also require the department, after consulting with those entities, if it identifies a species of invasive aquatic plant that may need to be controlled or eradicated, to notify the Department of Fish and Wildlife of the potential threat from that invasive aquatic plant.

The bill would require the Department of Fish and Wildlife, after receipt of that notice, in consultation with other appropriate local, state, and federal agencies, to conduct a risk assessment of that invasive aquatic plant species to determine whether the plant species presents a threat to the environment, economy, or human health, as determined after consideration of specified factors. The bill would require the Department of Fish and Wildlife, after completing that assessment, to report its findings to the department so that the department may take any necessary action to control and, when feasible, eradicate an invasive aquatic plant, as authorized under the bill. The bill would also define the term “invasive aquatic plant” for purposes of the Fish and Game Code.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The spread of invasive aquatic plants is a continuing problem
- 4 in the Sacramento-San Joaquin Delta, its tributaries, and the Suisun
- 5 Marsh.

1 (b) Invasive aquatic plants impact the Sacramento-San Joaquin
2 Delta, its tributaries, and the Suisun Marsh by creating navigational
3 obstructions and hazards for boats and other watercraft; impairing
4 recreational activities such as swimming, fishing, and hunting;
5 damaging water supply infrastructure and flood protection systems;
6 altering water quality; and degrading the physical and chemical
7 characteristics of fish and wildlife habitat.

8 (c) Coordinated, early-stage response to introductions of invasive
9 aquatic plants is critical to long-term control and management of
10 those invasive species to protect the state's environment, economy,
11 and human health from harmful impacts of those invasive species.

12 (d) Authorizing the Department of Boating and Waterways to
13 cooperate with other state, federal, and local agencies in the
14 identification and management of invasive aquatic plants in-lieu
15 of requiring that the department undertake legislative action each
16 time a new species of invasive aquatic plant is identified, would
17 enable the state to manage and control invasive aquatic plants in
18 the Sacramento-San Joaquin Delta, its tributaries, and the Suisun
19 Marsh in a more cost-efficient and effective manner than is
20 currently implemented.

21 SEC. 2. Section 48.5 is added to the Fish and Game Code, to
22 read:

23 48.5. "Invasive aquatic plant" means an aquatic plant or alga,
24 including its seeds, fragments, and other biological materials
25 capable of propagating that plant or alga, that is usually not native
26 to an area, and whose establishment and spread causes or is likely
27 to cause harm to native species and their habitat; the economy,
28 including the viability of commercial, agricultural, aquacultural,
29 or recreational activities; and human health. Aquatic plants shall
30 be determined to be invasive through the risk assessment required
31 to be completed by the department in consultation with the
32 Department of Boating and Waterways and other state, local, and
33 federal agencies pursuant to subdivision (c) of Section 64.5 of the
34 Harbors and Navigation Code.

35 SEC. 3. Section 64.5 is added to the Harbors and Navigation
36 Code, to read:

37 64.5. (a) The department is designated as the lead agency of
38 the state for the purpose of cooperating with other state, local, and
39 federal agencies in identifying, detecting, controlling, and
40 administering programs to manage invasive aquatic plants in the

1 Sacramento-San Joaquin Delta, its tributaries, and the Suisun
2 Marsh. The department, in consultation with appropriate state,
3 local, and federal agencies, may take such action it determines is
4 necessary, upon concurrence from the Department of Fish and
5 Wildlife following the completion of the risk assessment described
6 in subdivision (c), to implement control and, when feasible,
7 eradication measures for invasive aquatic ~~plants~~ *plants*. Any
8 actions taken to control invasive aquatic plants shall be in
9 compliance with all applicable laws and regulations and conducted
10 in an environmentally sound manner.

11 (b) The department shall regularly consult with the United States
12 Department of Agriculture, the United States Fish and Wildlife
13 Service, the National Oceanic and Atmospheric Administration,
14 the University of California, and other members of the scientific
15 and research communities, as well as other state agencies with
16 authority over the control of invasive aquatic plants to determine
17 which species of those plants should be given the highest priority
18 for management and determine the best control and, when feasible,
19 eradication measures.

20 (c) (1) After consulting with the various entities as required in
21 subdivision (b), if the department identifies a species of invasive
22 aquatic plant that may need to be controlled or eradicated, the
23 department shall notify the Department of Fish and Wildlife of the
24 potential threat from that plant species. After receipt of that notice,
25 the Department of Fish and Wildlife, in consultation with other
26 appropriate local, state, and federal agencies, including, but not
27 limited to, the Department of Food and Agriculture, the Department
28 of Water Resources, the State Water Resources Control Board,
29 the Department of Pesticide Regulation, and the Office of
30 Environmental Health Hazard Assessment, shall conduct a risk
31 assessment of the invasive aquatic ~~plants~~ *plant species*
32 identified by the department to determine whether the plant species
33 presents a threat to the environment, economy, or human health.
34 In making that determination, the department shall take prompt
35 action to minimize detrimental impacts and costs of management,
36 and shall consider all of the following:

37 (A) *Whether the invasive aquatic plant species may obstruct*
38 *navigation and recreational uses of waterways.*

39 (A)

1 (B) Whether the invasive aquatic plant species may cause
2 environmental damage, including threats to the health and stability
3 of fisheries, impairment to birds' access to waterways and nesting,
4 roosting, and foraging areas, deterioration of water quality resulting
5 from plant decay, and harm to native plants.

6 ~~(B)~~

7 (C) Whether the invasive aquatic plant species may cause harm
8 to the state's economy, infrastructure, or manmade facilities such
9 as state water storage facilities and pumping operations, by
10 increasing flood risk, threatening water supplies by blocking
11 pumps, canals, and dams necessitating early control efforts.

12 ~~(C) Whether the invasive aquatic plant species may obstruct~~
13 ~~navigation and recreational uses of waterways.~~

14 (2) Based on factors specified in subparagraphs (A), (B), and
15 (C) of paragraph (1) and any other environmental, economic, or
16 human health impacts, the risk assessment shall specify whether
17 the plant species under consideration has been determined to be
18 an invasive aquatic plant. Findings from the risk assessment shall
19 be documented in a way that clearly describes the severity and
20 types of impacts caused by a plant species determined to be an
21 invasive aquatic plant.

22 (3) After completing the risk assessment required by paragraph
23 (1), the Department of Fish and Wildlife shall report its findings
24 to the department so that the department may take any necessary
25 action to control and, when feasible, eradicate an invasive aquatic
26 plant, as authorized under subdivision (a).

27 (d) For purposes of this section, "invasive aquatic plant" means
28 an aquatic plant or alga, including its seeds, fragments, and other
29 biological materials capable of propagating that plant or alga, that
30 is usually not native to an area, and whose establishment and spread
31 causes or is likely to cause harm to native species and their habitat;
32 the economy, including the viability of commercial, agricultural,
33 aquacultural, or recreational activities; and human health. Aquatic
34 plants shall be determined to be invasive through the risk
35 assessment required to be completed by the Department of Fish
36 and Wildlife in consultation with the ~~Department of Boating and~~
37 ~~Waterways department~~ and other state, local, and federal agencies
38 pursuant to subdivision (c).

39 (e) ~~This section does not require the department to attempt~~
40 ~~eradication of~~ *shall not be construed to imply that* water hyacinth

1 (Eichhornia crassipes) or Brazilian elodea (Egeria densa) *can be*
2 *successfully eradicated. However, control of these populations*
3 *shall be attempted pursuant to Section 64.* Eradication of South
4 American spongeplant (Limnobium laevigatum) populations shall
5 be attempted when detected to the extent feasible.